



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

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STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER BY CONSENT ISSUED TO Marshall Concrete Products of Christiansburg, Inc.

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Marshall Concrete Products of Christiansburg, Inc., for the purpose of resolving certain violations of State Air Pollution Control Laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Marshall Concrete Products of Christiansburg, Inc." means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

An Agency of the Natural Resources Secretariat

7. "Marshall Concrete", means Marshall Concrete Products of Christiansburg, Inc..
8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.

SECTION C: Findings of Fact and Conclusions of Law

1. Marshall Concrete, owns and operates concrete ready mix batch plants that are subject to Virginia Regulations for the Control and Abatement of Air Pollution. Two of these concrete batch plants are the focus of the findings of this Order, they are the Moneta, Virginia Plant, registration 30790 and the Dublin, Virginia Plant, registration 20589.
2. On May 20, 2004, DEQ staff visited the Dublin concrete batch plant and observed excessive visible particulate emissions coming from the transport truck load-out chute. DEQ staff informed the site contact that controls for fugitive emissions were required by regulation. The site contact informed DEQ staff that this was normal operation for the plant and that the corporate contact would be informed of the findings and results of the inspection.
3. On June 3, 2004, DEQ staff visited the Moneta concrete batch plant to conduct an unannounced inspection. During this inspection DEQ staff witnessed dust generated from the concrete mix load-out. When DEQ staff inquired whether pollution control equipment was in place, the plant manager stated that the water-ring that had been in place was removed mid-May to allow for the new water ring to be installed. The anticipated date of installation of the new replacement water ring was June 11, 2004. During the inspection, WCRO staff mentioned that our State Air Pollution Regulations required notification prior to removal of pollution control equipment in the event production operations were going to continue after the removal. The notification should be no less than 24 hours prior to removal of the pollution control equipment.
4. On June 11, 2004, WCRO issued Marshall Concrete a Notice of Violation of Sections 9 VAC 5-20-180 B (Notification for Control Equipment Maintenance) of the Virginia Regulations for the Control and Abatement of Air Pollution and noncompliance with State Air Pollution Enforcement Policies and Procedures, for the Moneta concrete batch plants noted observations.

5. On July 1, 2004. WCRO issued Marshall Concrete a Notice of Violation of Sections 9 VAC 5-50-260, 9 VAC 5-80-10H and 9 VAC 5-50-90 of the State Air Pollution Board Regulations that states that a facility shall at all times, control fugitive dust by wet suppression spray systems, or the equivalent and shall operate at optimum design and no owner or operator shall cause or permit any materials or property to be handled, transported, stored, or used without taking reasonable precautions to prevent the material from becoming airborne at this facility, respectively, due to the observations made at the Dublin concrete batch plant.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code §10.1-1307.D, 10.1-1184 and §10.1-1316.C, orders Marshall Concrete Products of Christiansburg, Inc., and Marshall Concrete Products of Christiansburg, Inc. agrees, to perform the actions described in this section of this Order and Appendix A of this Order. In addition, the Board orders Marshall Concrete Products of Christiansburg, Inc., and Marshall Concrete Products of Christiansburg, Inc., voluntarily agrees to pay a civil charge of \$5600.00 in settlement of the violation cited in this Order.

1. The Board orders Marshall Concrete Products of Christiansburg, Inc., and Marshall Concrete Products of Christiansburg, Inc. voluntarily agrees, to pay a civil charge of \$1400.00 within 30 days of the effective date of the Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The Payment shall include Marshall Concrete Products of Christiansburg, Inc.'s Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

2. \$4200.00 of the civil charge shall be satisfied upon completion by Marshall Concrete Products of Christiansburg, Inc., of a Supplemental Environmental Project (SEP) pursuant to Virginia Code 10.1-1186.2 and as described in Appendix A of this Order
3. The Department has sole discretion to determine whether the SEP has been completed in a satisfactory manner.

4. Should the Department determine that the SEP has not been completed in a satisfactory manner, The Department shall notify Marshall Concrete Products of Christiansburg, Inc. of such determination in writing. Within 30 days of such notification, Marshall Concrete Products of Christiansburg, Inc. shall pay the amount specified in Paragraph 2 above in accordance with the procedures specified in Paragraph 1 above.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Marshall Concrete Products of Christiansburg, Inc., for good cause shown by Marshall Concrete Products of Christiansburg, Inc., or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Marshall Concrete Products of Christiansburg, Inc. by DEQ on April 22, 2003. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Marshall Concrete Products of Christiansburg, Inc. admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Marshall Concrete Products of Christiansburg, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Marshall Concrete Products of Christiansburg, Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.

6. Failure by Marshall Concrete Products of Christiansburg, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Marshall Concrete Products of Christiansburg, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Marshall Concrete Products of Christiansburg, Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Marshall Concrete Products of Christiansburg, Inc. shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Marshall Concrete Products of Christiansburg, Inc.. Notwithstanding the foregoing, Marshall Concrete Products of Christiansburg, Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Marshall Concrete Products of Christiansburg, Inc.. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Marshall Concrete Products of Christiansburg, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Marshall Concrete Products of Christiansburg, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of JANUARY ^{2005.} 3, 2005.

FOR

Robert G. Burnley, Director
Department of Environmental Quality

Marshall Concrete Products of Christiansburg, Inc. voluntarily agrees to the issuance of this Order.

By:

Date:

December 28, 2004

Commonwealth of Virginia

City/County of Danville

The foregoing document was signed and acknowledged before me this 28 day of
December, 2004, by George W. Patterson, who is
(name)

HR Director of Marshall Concrete Products of Christiansburg, Inc., on behalf of the
Corporation.
(title)

James B. Halley
Notary Public

My commission expires:

10/31/06

Appendix A.

Supplemental Environmental Project:

"Installation of Four or More Silo Loading Pressure Restriction Valves Project"

1. The four Pressure Restriction Valves will be installed within two months of the effective date of this Order.
2. Two of the four valves will be installed at the Moneta plant and the other two at the Dublin plant.
3. In the event that the cost of the four valves and installation is less than \$4200.00, an additional valve(s) will be installed at another batch plant(s) in the Region.
4. In the event the valves aren't installed within two months of the effective date of the Order, then the full civil penalty in Section D., of this Order, becomes due and is to be sent to the address provided in Section D., of this Order.
5. The civil penalty calculated as 25% of the original civil penalty, (with 75% SEP offset), will be paid as described in D.1., of this Order and is due prior to the completion date established for this SEP.
6. A letter documenting completion of the SEP project should be sent to WCRO within two months of the effective date of the Order.